

REMARKS

Claims 1-30 are pending in this application. By this Amendment, claims 25 and 30 are amended. Amendments to claims 25 and 30 are non-narrowing amendments, made for clarification purposes or to correct typographical errors only and not to overcome any prior art. No new matter is added.

ELECTION/RESTRICTION

The Restriction Requirement mailed on July 9, 2004 grouped claims 1-30 into Group I (claims 1-11 and 25-30) and Group II (claims 12-24). However, the present Office Action, on page 2, states that claim 25 should have belonged in Group II because the Examiner asserts that "the device in claim 25 might not [be] the same as the device in claim 1 since the device in claim 1 might be formed by a method different from the method of claim 12". However, Applicants respectfully traverse the re-grouping of the restriction requirement. In particular, claim 25 has now been amended to include all of the features found in claim 1. The amendment provides that the device in claim 25 is the same as the device in claim 1 since all of the features found in claim 1 is now in claim 25. Thus, reconsideration of the re-grouping of claim 25 is respectfully requested.

Further, as claim 25 is a linking claim, which "links" the subject matter of claims 1 and 12, the Examiner is reminded that he must examine the claims to the non-elected invention that are linked to the elected invention when the linking claim is allowed (M.P.E.P. §809.04). Therefore, any claim directed to a non-elected invention, previously withdrawn from

consideration), which depends from or includes all of the features of the linking claim that is free of the prior art, may be rejoined and can be fully examined for patentability.

CLAIM REJECTION UNDER § 35 U.S.C. §112

Claims 1 and 26 are rejected under 35 U.S.C. § 112, second paragraph, as failing to set forth the subject matter which Applicants regard as their invention. In particular, the Examiner asserts that he is unclear as to “how a first portion of floating gate relate to a second portion of floating gate” and “how a floating gate transistor relate to a gate stack.” Applicants respectfully traverse the rejection.

In particular, it is submitted that the floating gate 106 comprises two portions (e.g., a first portion 106a and a second portion 106b). The first portion 106a may be included in the gate stack 200 and the second portion 106b may be included in the floating gate transistor 400, as described in paragraphs [0022]-[0025] in the instant disclosure. In other words, FIG. 1 and FIGS. 2A and 2B depict the floating gate 106 having a first portion 106a and second portion 106b such that the first portion 106a of floating gate 106 rests in the outlined region area of gate stack 200 (see FIG. 1), and the second portion 106b rests in the outlined region area of floating gate transistor 400 (see FIG. 1). Accordingly, it is respectfully submitted that the gate stack having the first portion of the floating gate and the floating gate transistor having the second portion of the floating gate are formed over the same semi-conductor substrate (see FIGS. 2A and 2B).

Further, by directly examining the language in claims 1 and 26, each claim adequately provides proper antecedent basis to reflect that the floating gate may include a first and second

portions, as discussed above. In particular, claim 1 recites that “a first portion of a floating gate form over a semiconductor substrate” and “a second portion of the floating gate formed over the semiconductor substrate”; and claim 26 recites “a floating gate formed over a semiconductor substrate”, “ a first portion of the floating gate” and “a second portion of the floating gate”. Accordingly, it is submitted that the first occurrence of the floating gate, found in claims 1 and 26, is recited as “a” floating gate and the second occurrence of the floating gate is recited as “the” floating gate, which constitutes as the same floating gate.

Thus, reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION


It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this Amendment are respectfully requested.

If the Examiner believes that a personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 668-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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